UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,217	11/19/2001	Robert M. Zeidman	M-8637-1P US	9153

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EXAMINER
LUU, CUONG V

ART UNIT	PAPER NUMBER
2128	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/044,217	ZEIDMAN, ROBERT M.
	Examiner	**Art Unit**	
	Cuong V. Luu	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>*11/06/06*</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>*17-18, 57-63*</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) <u>*59,60 and 63*</u> is/are allowed.
6) ☒ Claim(s) <u>*17-18 and 61*</u> is/are rejected.
7) ☒ Claim(s) <u>*57,58 and 62*</u> is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 17-18 and 57-63 are pending. Claims 1-2, 5-14, and 25-56 have been canceled. Claims

17-18 and 57-63 have been examined. Claims 17-18 and 61 have been rejected under U.S.C.

101 but would be allowable if amended to overcome the rejection. Claims 57, 58, and 62 would

be allowable with amendments to overcome objections below. Claims and 59, 60, and 63 have

been allowed.

Claim Objections

1. Claims 57, 58, and 62 are objected to because of the following informalities: these claims'

   preambles starting with "an apparatus" but ending with "the method comprising".

   Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claims 17-18 and 61 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory tangible subject matter.

2. As per claims 17, 18, and 61, the Examiner respectfully submits, under current PTO

   practice, that the claimed invention partially does not recite a tangible result and is merely

   drawn to a manipulation of abstract ideas. The claims are not tangible because the results of

   the final step of the method are partially not used in such a way to make them tangible such

   as displaying to users or storing for later usage. The claims recite, "reporting an error if data

packet received by the first computer does not match the data packet that was sent by the

first computer". The reason they are partially not tangible is because:

- The step of reporting an error, which is tangible, if there were an error in the

  comparison step.

- However, if there were not an error in the comparison step, there would not be any

  reporting occurring, which make this claim not tangible.

Allowable Subject Matter

Claims 17-18 and 61 would be allowable if rewritten or amended to overcome the

rejection(s) under 35 U.S.C. 101, set forth in this Office action. The following is a

statement of reasons for the indication of allowable subject matter:

1. As per claim 17, the prior art teaches:

   (a) generating a data packet using software in a first computer;

   (b) transmitting the data packet, from the first computer, to a second computer;

   but does not teach:

   (c) transmitting back <u>the data packet received by the second computer</u> to the first computer;

   (d) <u>comparing the data packet received by the first computer with the data packet that was</u>

   <u>sent by the firs computer;</u>

   as recited by the claimed invention.

1. As per claim 18, the prior art teaches:

   (a) generating a data packet using software in a first computer;

   (b) from the first computer, transmitting the data packet to a second computer;

(c) at the second computer, storing the data packet received from the first computer in a first buffer in the second computer;

but does not teach:

(d) at the second computer, transmitting the data packet stored in the first buffer to a third computer;

(e) at the third computer, transmitting back the data packet received to the second computer;

(f) at the second computer, transmitting the data packet received from the third computer to the first computer;

(g) at the first computer, comparing the data packet received with the data packet that was sent; and

(h) reporting an error if the data packet received by the first computer does not match the data packet sent by the first computer.

as recited by the claimed invention.

2. As per claim 61, the prior art teaches:

(a) generating a data packet using software in a first computer;

(b) from the first computer, transmitting the data packet to a second computer;

but does not teach:

(c) at the second computer, transmitting the data packet to a third computer;

(d) at the third computer, transmitting back the data packet received to the second computer;

(e) at the second computer, transmitting the data packet received from the third computer to the first computer;

(f) <u>at the first computer, comparing the data packet received with the data packet that was sent; and</u>

(g) reporting an error <u>if the data packet received by the first computer does not match the data packet sent by the first computer.</u>

as recited by the claimed invention.

Claims 57-58 and 62 would be allowable if rewritten or amended to overcome the claim objections, set forth in this Office action. The following is a statement of reasons for the indication of allowable subject matter:

3. As per claim 57, the prior art teaches:

(a) a source for generating a data, packet using software in a first computer;

(b) an interface that transmits the data packet from the first computer to a second computer, but does not teach:

<u>receives the data packet back from a second computer; and</u>

(c) a computer program in the first computer that compares <u>the data packet received by the first computer with the data packet that was sent by the first computer,</u> and reports an error <u>if the data packet received by the first computer does not match the data packet that was sent by the first computer.</u>

as recited by the claimed invention.

4. As per claim 58, the prior art teaches:

(a) a source that generates a data packet using software in a first computer;

(b) an interface in the first computer that transmits the data packet to a second computer,

and

(c) a program running on the second computer that stores the data packet received from the

first computer in a buffer allocated in the second computer;

(d) an interface in the second computer that receives the data packet from the first computer

and returns the data packet received from the third computer to the first computer;

but does not teach:

an interface in the first computer that <u>receives the data packet back from the second</u>

<u>computer;</u>

an interface in the second computer <u>that returns the data packet received from the third</u>

<u>computer to the first computer;</u>

(e) <u>an interface in the second computer that transmits the data packet stored in the buffer to</u>

<u>a third computer and receives back the data packet from the third computer;</u>

(f) <u>an interface in the third computer that receives the data packet from the second computer</u>

<u>and transmits the data packet to the second computer; and</u>

(g) a program running in the first computer that compares <u>the data packet received at the</u>

<u>first computer with the data packet that was sent from the first computer;</u> and reports an

error <u>if the data packet received by the first computer does not match the data packet sent</u>

<u>by the first computer.</u>

as recited by the claimed invention.

5. As per claim 62, the prior art teaches:

(a) a source that generates a data packet using software in a first computer;

(b) an interface in the first computer that transmits the data packet to a second computer and receives the data packet back from the second computer;

(c) an interface in the second computer that receives the data packet from the first computer and returns the data packet received from the third computer to the first computer;

but does not teach:

an interface in the first computer that transmits <u>receives the data packet back from the</u> <u>second computer;</u>

(d) <u>an interface in the second computer that transmits the data packet to a third computer</u> <u>and receives back the data packet from the third computer;</u>

(e) <u>an interface in the third computer that receives the data packet from the second</u> <u>computer and transmits the data packet to the second computer; and</u>

(f) a program running in the first computer that compares <u>the data packet received at the first</u> <u>computer with the data packet that was sent from the first computer;</u> and reports an error <u>if</u> <u>the data packet received by the first computer does not match the data packet sent by the</u> <u>first computer.</u>

as recited by the claimed invention.

Claims 59, 60, and 63 are allowed. The following is an examiner's statement of reasons for allowance:

6. As per claim 59, the prior art teaches:

(a) generating a data packet using software in a first computer;

(b) transmitting the data packet, from the first computer, to a second computer;

but does not teach:

(c) transmitting <u>back the data packet received by the second computer to the first computer;</u>

(d) comparing the data packet <u>received by the first computer with the data packet that was</u> <u>sent by the first computer; and</u>

(e) reporting an error <u>if the data packet received by the first computer does not match the</u> <u>data packet that was sent by the first computer.</u>

as recited by the claimed invention.

7.   As per claim 60, the prior art teaches:

(a) generating a data packet using software in a first computer;

(b) from the first computer, transmitting the data packet to a second computer;

(c) at the second computer, storing the data packet received from the first computer in a first

buffer in the second computer;

but does not teach:

(d) <u>at the second computer, transmitting the data packet stored in the first buffer to a third</u> <u>computer;</u>

(e) <u>at the third computer, transmitting back the data packet received to the second</u> <u>computer;</u>

(f) <u>at the second computer, transmitting the data packet received from the third computer to</u> <u>the first computer;</u>

(g) at the first computer, comparing the data packet <u>received with the data packet that was</u> <u>sent; and</u>

(h) reporting an error <u>if the data packet received by the first computer does not match the</u> <u>data packet sent by the first computer.</u>

 as recited by the claimed invention.

8. As per claim 63, the prior art teaches:

(a) generating a data packet using software in a first computer;

(b) from the first computer, transmitting the data packet to a second computer;

but does not teach:

(c) <u>at the second computer, transmitting the data packet to a third computer;</u>

(d) <u>at the third computer, transmitting back the data packet received to the second</u>

<u>computer;</u>

(e) <u>at the second computer, transmitting the data packet received from the third computer to</u>

<u>the first computer;</u>

(f) at the first computer, comparing <u>the data packet received with the data packet that was</u>

<u>sent; and</u>

(g) reporting an error <u>if the data packet received by the first computer does not match the</u>

<u>data packet sent by the first computer.</u>

as recited by the claimed invention.

Any comments considered necessary by applicant must be submitted no later

than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on

Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Cuong V. Luu whose telephone number is 571-272-8572. The examiner

can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kamini Shah, can be reached on 571-272-2279. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300. An inquiry of a

general nature or relating to the status of this application should be directed to the TC2100

Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CVL

KAMINI SHAH
SUPERVISORY PATENT EXAMINER